

REMARKS

Claims 72, 73 and 75-105 are pending in the captioned application. Claims 1-71 and 74-75 have been cancelled without prejudice or disclaimer. Claims 72, 80 and 88 have been amended. Claims 89-105 have been withdrawn as directed to non-elected subject matter.

Applicant, by canceling or amending any claims herein, makes no admission as to the validity of any rejection made by the Examiner against any of these claims. Applicants reserve the right to reassert any of the claims canceled herein or the original claim scope of any claim amended herein, in a continuing application.

Claim 72 has been amended to recite a “vector comprising: an amplicon-6 or Tamplicon-7 sequence comprising an origin of replication, a cleavage and packaging signal and a promoter sequence which induces expression of at least one nucleic acid sequence product in a lymphocyte cell host, wherein said vector is capable of inducing an immune response upon administration thereof to a mammal.”

Claim 80 has been amended to correct a typographical. Claim 80 now recites “...the foreign nucleic acid sequence is secreted...” rather than “...the foreign nucleic is secreted....”

Claim 88 has been amended to recite a “method of Claim 85, further comprising: (a) providing a helper virus; (b) expressing said nucleic acid sequence product; and (c) introducing said helper virus into the body of said mammal.”

Support for the amendments to claims 72, 80 and 88 can be found throughout the specification and claims as originally filed.

No new matter has been added.

In view of the remarks set forth below, further and favorable consideration is respectfully requested.

I. At page 3 of the Official Action, claims 72, 73, 78 and 81 have been rejected under on the ground of obviousness type double patenting.

Applicant respectfully submits that this rejection has been rendered moot by the incorporation of the elements of cancelled claims 74 and 75. Therefore, Applicant respectfully requests reconsideration and withdrawal of this rejection.

II. At 4 of the Official Action, claims 72, 73 and 76-88 have been rejected under 35 USC § 112, first paragraph.

Applicant respectfully submits that this rejection has been rendered moot by the incorporation of the elements of cancelled claims 74 and 75. Therefore, Applicant respectfully requests reconsideration and withdrawal of this rejection.

III. At page 7 of the Official Action, claims 72-88 have been rejected under 35 USC § 112, first paragraph.

The Examiner asserts that claim 72 is indefinite for reciting that the “vector is adapted to induce an immune response.” The Examiner further asserts that claim 88 omits essential steps.

Applicant submits that the rejections of claims 72-88 have been obviated by the amendments to claim 72 and 88. Specifically, claim 72 no longer recites that the “vector is adapted to induce an immune response....” Further, claim 88 now recites “...(b) expressing said nucleic acid sequence product....”

Therefore, Applicant submit that claimss 72-88 are clear and definite within the meaning of 35 USC § 112. Accordingly, Applicant respectfully requests reconsideration and withdrawal of these rejections.

IV. At page 8 of the Official Action, claims 72-88 have been rejected under 35 USC § 102(e) as being anticipated by Frenkel (US Patent No. 6,503,752).

Applicant respectfully submits that US Patent No. 6,503,752 is not prior art against the present application within the meaning of 35 USC § 102(e). In particular, Applicant submits that the sole inventor of the subject matter presently claimed in this application is also the sole inventor of the subject matter claimed in US Patent No. 6,503,752. Should the Examiner so require, Applicant will provide a declaration attesting to the same.

As US Patent No. 6,503,752 is not prior art for the purposes of 35USC § 102(b), Applicant respectfully requests that this rejection be reconsidered and withdrawn.

CONCLUSION

In view of the foregoing, Applicant submits that the application is in condition for immediate allowance. Early notice to that effect is earnestly solicited. The Examiner is invited to contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 14-0112.

Respectfully submitted,

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